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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re A.M., a Person Coming Under the
Juvenile Court Law.

SONOMA COUNTY HUMAN
SERVICES DEPARTMENT,

Plaintiff and Respondent,

v.

M.P.,

Defendant and Appellant.

A155294

(Sonoma County
Super. Ct. No. DEP531501)

M.P. (Mother) appeals from juvenile court orders that established dependency jurisdiction over her two children and removed them from her custody. She contends the evidence was insufficient to support the court’s jurisdictional findings. The record supports the findings and orders, so we affirm.

BACKGROUND

Ten-year-old A.M. and eight-year-old J.M. came to the attention of the Sonoma County Human Services Department (the Department) on October 28, 2017, after police officers responded to a neighbor’s report that Mother pulled A.M. across the yard by her hair and hit her on the face. Mother was “uncooperative, angry, and pacing around.” When the officers asked to see A.M., Mother said she was in the back of the house, then said she was not at home, and then that she was at a friend’s house. Mother “continually

said her child was not home and became more agitated by pacing around and evasively answering questions. She would not give a straight answer. . . . She denied access and became more defensive and continued to pace on the porch and in front of the door area.”

When officers entered the house, the children were crying, scared and upset. A.M. had a small bruise on her cheek but denied that Mother assaulted her and said she had fallen off the bed. J.M. said the neighbors who reported the incident were lying.

The officers described the state of the home as follows. “[T]he outside of the house was littered with piles of various items including bottles and other random items. [Mother] had a small fire-pit area where she would burn leaves or branches and use to cook food. There were piles of shoes, clothing, various items, knives and other buckets covering the porch area. Inside the home was a disarray. Items piled behind the front door making access in and out of the house difficult. The house was very small. There were dirty dishes in the kitchen and dishes were scattered throughout the area. Clothing was piled everywhere and seemed to be stored on all shelving areas. There was a large 2” rope laying on the floor and clothing laid out throughout the house which obstructed movement through the house. There was one small bunk bed for three people.”

Mother said A.M. “had fallen off the bed at some point in the morning and she wasn’t even home when the neighbors said she had hit her child.” Her neighbor stole her plant and made up the story. Mother presented as “very erratic” and appeared to show signs of a mental health disorder. She made odd claims about people stealing from her that made no sense. Mother was well known to police at the Guerneville substation, and was “known for making baseless theft report claims that are grandiose.”

Mother was arrested on charges of child endangerment and battery.¹ The social worker met with her at the county jail and observed that “she speaks rapidly, and her thoughts come quickly and sometimes are quite tangential.” Mother said she separated from the children’s father, James M., in 2011. She said the children’s father has hepatitis

¹ She was subsequently convicted of willfully injuring or endangering a child pursuant to Penal Code section 273a, subdivision (b).

and distanced himself from the family after his diagnosis. Mother is currently married to Tristan M., but they are separated and Tristan is on parole. Mother thought he was “using and ‘hanging with bad people.’ ”

The children were visibly traumatized. Their clothing was old and dirty and A.M.’s hair was dirty and full of knots. J.M.’s hair was long in some areas and shaved in others. When the social worker stopped to buy the children food, they expressed concerns about how much food they could get and how much money they could spend. Despite assurances not to worry about the money and to order enough food, the children ordered very little so the social worker ordered more to make sure they did not go hungry.

The children said that Mother works at a local bar and leaves them home alone during the evenings. J.M. said, “ ‘We are alone at night. My mom goes to work at 9:00pm and she comes back at 7:00am, just before we leave for school.’ ” Both children continued to deny the report about Mother dragging A.M. by the hair and striking her face. J.M. said, “ ‘The neighbors hate us because they think we stole a knee brace, but we didn’t.’ ” A.M. repeated that she fell out of bed, and J.M. added, “ ‘We live in Guerneville and there are rocks and trees. It is easy to get bruises there.’ ”

The children expressed fear about foster care. J.M. said, “ ‘We don’t need to go to horrible foster care. We can take care of ourselves, we can live by ourselves.’ ” A.M. agreed, and added that Mother was in “ ‘horrible foster care’ ” and “ ‘that’s why we don’t want to go.’ ” J.M. asked, “ ‘Are we being adopted by some weirdoes? What about if they are mass murderers? How would you know if the person is nice? We know we can’t trust people, we don’t trust the police, we don’t trust foster families. We can stay in our home alone.’ ”

The children said they had not seen their father in several years, since they fled San Diego with Mother. A.M. explained, “ ‘We came here because my mom doesn’t want my dad to know where we are. He does drugs, he may be dead. He has an illness that kills people. I don’t know the name, but people die from it. He does drugs with syringes. My mom doesn’t want us to talk to people.’ ” The children did not have

contact information for Father and said they did not feel safe with their grandmother. Mother had a new boyfriend, Joe, who was homeless and stayed near the river in Guerneville.

Jurisdiction

1. Petition

On October 31, 2017, the Department filed a juvenile dependency petition alleging the children came within Welfare and Institutions Code section 300, subdivisions (a), (b)(1) and (g).² The petition was later amended to strike the subdivisions (a) and (g) allegations. As amended, the petition alleged under subdivision (b) that the children had suffered, or there was a substantial risk that they would suffer, serious physical harm or illness due to parental neglect and/or Mother's inability to care for them due to mental illness, developmental disability or substance abuse. In support, the petition alleged that:

“b-1: [Mother] has failed to provide a safe living environment for the children . . . , to wit, on or about October 28, 2017, the home was observed to be in disarray with items piled behind the front door making access in and out of the small house difficult, dirty dishes in the kitchen and scattered throughout the area, and piles of clothes everywhere which obstructed movement through the house. Outside the residence, there were piles of shoes, clothing, various items including but not limited to bottles, knives, and buckets covering the porch area, along with a small pit where the mother would put dried leaves or branches to burn in order to cook food. Law enforcement deemed the home unsafe for the children, placing the children at substantial risk in the mother's care. As a result of this incident the mother was arrested for violation of PC 273a(a)(Felony) Child Endangerment.

“b-2: [Mother] has untreated mental illness and history of substance abuse which causes her to engage in multiple arguments with people sometimes in the presence of the children . . . , expose the children to drug needles and/or people who use drugs, fail to

² Unless otherwise noted, further statutory citations are to the Welfare and Institutions Code.

provide a safe living environment for the children, and leave the children unattended for periods of time which places the children at continued risk of emotional and/or physical harm, to wit, the mother has been diagnosed with Paranoid Schizophrenia and Bipolar disorder that she refuses to take medication for; has been convicted of HS 11357(b) Possession PC 484(a) Petty Theft, HS 11550(a) Use/Under the influence of a controlled substance, PC 602(n) Trespassing, and PC 166(a)(4) Contempt by disobeying a court order; has been reported to law enforcement on at least three occasions in the last two months to either being under the influence or acting ‘odd’ in public; and was arrested on or about October 28, 2017 for violation of PC 273a(a)(Felony) Child Endangerment and reported to be ‘very erratic[’] and appeared to show some signs of a mental health disorder.”

The family had five prior child welfare referrals for emotional abuse or general neglect since 2007, but all were found to be inconclusive, unfounded, or evaluated out. The Department was unable to contact Father. The children were detained in a confidential emergency foster home.

2. Jurisdiction Reports

The Department’s jurisdiction report, filed on November 28, 2017, recommended that the court sustain the allegations of the amended petition, establish jurisdiction over the children and order Mother to submit to a psychological evaluation. Mother had tested positive for methamphetamine and marijuana at A.M.’s birth. She had a criminal history beginning in 1997 that included convictions for using or being under the influence of a controlled substance, petty theft, possession of cannabis, driving without a license, contempt for disobeying a court order, and trespass. In 2012, 2015, and 2016 the San Diego County Human Services Department received reports of neglect and emotional abuse, which were categorized as unfounded or inconclusive.

The social worker made numerous attempts to meet with Mother before Mother agreed to meet at the Guerneville Empowerment Center in the presence of her peer mentor and the center’s director. Mother “consistently demonstrated difficulty managing her mental health during these attempts” and was “resistant to following the [social

worker's] requests to meet at the Department or respond to the questions appropriately.” During the meeting “mother would attempt at times to be cooperative but mostly was uncooperative to answering directly to the questions asked by the undersigned. Overall, the mother's speech was pressured and fast while at other times her conversation was difficult to track and understand. Throughout the conversation, she would attempt to argue, often misrepresent and incorrectly state what was stated and ask questions often off topic or about minutiae which she believed had meaning of significance.” The social worker's service log described many rambling and frequently incoherent phone calls and discussions with Mother.

Mother denied that her house was cluttered and filthy and said it had been ransacked by police. She said, “ ‘There was piles of clothes outside but Officer Jensen threw my stuff around everywhere. When I got home it looked like someone ransacked my house. I did have nice neat piles outside but like I said I had been picking up trash for a year and a half. Not all that stuff is trash. A lot of that stuff can be washed and recycled. That's how I provide for the homeless and that's why they like me. . . . There are buckets where [clothes] were systematically being washed and hung dry. And I do have a fire pit yes, but I have never made food on it although we have been known to roast marshmallows and hot dogs and there was no grill to it and I don't know what he was saying about leaves. My stove works. I cook food inside and out. Don't you? Who doesn't? ’ ” There were no knives lying around: “I don't know what he's talking about. What kind of knives? Knives that he threw around. Dirty dishes, everybody has dirty dishes. As a matter of fact I find dishes all over this river.” Mother told the social worker she would take dishes from the river, wash them and donate them to a second-hand store.

Mother said she had pictures on her phone that proved her home was clean, but when the social worker asked to see them Mother said she was not sure she had any on her phone, was having problems with her phone, and recently got a new phone. The social worker told Mother she could send the pictures later, but never received any. Mother denied that she had been diagnosed as bipolar or schizophrenic or that there had

been prior child welfare referrals. She also denied having any criminal convictions, using drugs other than marijuana, or having been asked to drug test. The social worker stated, “[s]he then began to escalate and argue. Later when asked again about her substance abuse and what she would currently test positive for, [Mother] stated ‘I plead the fifth.’ ”

A.M. was described as an articulate, bright and outgoing child. She said Mother sometimes yelled at the children to discipline them but did not hit her except “ ‘if it’s something really bad, sometimes she might spank on the butt when I was little but not hard.’ ” Mother once poured cold water on A.M. while she was sleeping because A.M. forgot to do the dishes.

A.M. disclosed being exposed to domestic violence by Mother’s former boyfriend, Tristan M., but apparently Mother was no longer in contact with him. When asked about Mother’s drug use, A.M. responded that “ ‘the doctor said because of her back, she needs to smoke weed and does cigarettes. She drinks probably once a week I think. She drinks rum. It has a little Hawaiian girl or sometimes a pirate on the bottle; mostly happens when people are bothering her.’ ” A.M. did not know if Mother used drugs, but said “ ‘There’s a lot of drugs at the Brava beach. . . . I saw Tristan had some needles in his bag. Sometimes mom picks up needles from other people but I don’t think it was hers. She talks a lot sometimes.’ ”

J.M. presented as bright, articulate, and friendly, but when the social worker mentioned Tristan he began shaking and became tearful. He said, “ ‘Tristan, I don’t like him. He is evil. He is evil because he put mom in a headlock but [A.M.] woke up and Tristan stopped.’ ” J.M. said they still saw Tristan at the Brava Beach “ ‘but mom says, “ssh don’t look at him.” ’ ”

When asked about Mother’s drug use, J.M. said “ ‘she’s not like the other people. She only like smoked outside, like cigarettes or a pipe. She doesn’t drink.’ ” Mother got into arguments with “ ‘random people’ ” “ ‘a lot.’ ” When that happened, J.M. said, “ ‘we try to calm her down like we give her a pillow.’ ” He also stated, “ ‘my mom doesn’t do syringes. Only one time it was Tristan’s and came out of his backpack. I saw them and mom picked them up.’ ”

The maternal grandmother told the social worker that Mother had a history of violence towards her, “ ‘but I don’t think she would do that to the children.’ ” Grandmother had not been in contact with Mother since Mother got angry and frightened her one Thanksgiving. Mother was “ ‘a little off key sometimes.’ ” As a teenager Mother broke Grandmother’s partner’s ribs and was taken to Juvenile Hall. When Mother was pregnant with A.M. Grandmother’s therapist, Dr. Heath, diagnosed her as paranoid schizophrenic. Grandmother believed that Mother never got treatment and did not want to use medication. She had heard Mother did drugs in the past, but did not know if she was still using.

The report listed 14 contacts between Mother and the Sonoma County Sheriff’s Department between August and November 2017. The contacts included allegations of battery, harassment, smearing feces on someone’s tent, harassing and assaulting a child, and making false allegations of theft. Twice during that period Mother was present with people who had methamphetamine and paraphernalia in their possession or were under the influence.

In addition, on November 10, 2017, officers responded to a report that Mother stole some rain boots and found methamphetamine in her home. Her boyfriend, Joseph P., said the methamphetamine was his and was arrested. An officer who was also there when the children were detained noted that “the house was in worse condition [than] when I was last there. Clothes, cat food, dishes, food and random items were all over. The condition of the house had deteriorated.’ ”

The social worker stated that, despite evidence of her criminal, substance abuse and mental health history, Mother “continues to deny that any of it exists, deflects from addressing the issues, and/or blames others for her problems. She displays no insight into her behaviors. Despite both acknowledging and then denying that she has been diagnosed with having bipolar disorder and schizophrenia, she denies that she has any mental health issues. In regard to why she collects trash and other people’s belongings, she perceives herself as doing a service for the community and is unable to acknowledge how this has impacted the condition of her home and the safety of the children. In

regards to her constant arguments, she blames the issues on other people having problems with her and considers herself the victim in the process. Unfortunately, her children have been exposed or have heard her ruminate about perceived slights and threats by others, causing them to report having to help her calm down or overidentify with [Mother] and also perceive various people as ‘evil.’ In regards to her substance abuse, she has completely denied ever using drugs except for marijuana despite records of convictions, statements by the children in which she appears to consistently be with people who are using and/or around drug paraphernalia, and had methamphetamine in her own home even after the children were removed. Furthermore, she failed to submit to drug testing and then failed to acknowledge having a conversation and receiving a referral.”

The social worker observed that Mother’s unaddressed mental health issues appeared to be “significant and impacting her ability to be able to follow conversations, agree to follow the rules of visitation, or follow-up with referrals made on her behalf.” The Department accordingly requested that Mother submit to two psychological evaluations to determine whether she could benefit from services.

On January 2, 2018, the Department filed an addendum report asking the court to order Mother to submit to a psychological evaluation, and if necessary to a second evaluation, prior to the dispositional hearing. Photographs of the home and of A.M. taken the day the children were removed were attached.

3. Jurisdictional Hearing

The contested jurisdictional hearing was held on January 5, 2018. The social worker testified about the chaotic and unsafe environment in Mother’s home, her mental health issues and her history of contacts with law enforcement. The children appeared to have anxiety related to Mother’s lifestyle and were said to have difficulty “being able to not identify with [her] beliefs in persecution, things like that.”

The social worker’s belief that Mother had mental health issues was based on a number of factors including her interactions with Mother, the prior social worker’s observations, Mother’s erratic behavior and placement in the mental health unit at the jail, law enforcement officers’ view that Mother was dangerous, Mother’s numerous

contacts with law enforcement, and the information from Grandmother about her mental health issues. Mother easily became agitated and unable to speak coherently.

Grandmother testified that Mother was diagnosed with schizophrenia about 10 years earlier, but had never taken psychotropic medication. Grandmother had concerns regarding Mother's mental health and behavior. She said that Mother "can be verbally aggressive and I'm a little frightened of her sometimes," but as an adult Mother never hit Grandmother.

Mother testified that she was diagnosed with ADHD in second grade and with anxiety when she left the children's father. She accompanied Grandmother to an appointment with Dr. Heath around the time A.M. was born, but she never met with the doctor alone and, as far as she knew, was not given new diagnoses. Mother picked up trash from the beach because she wanted to clean it up and heal it. She did not take methamphetamine and had no idea how the methamphetamine found in her house got there. She kicked Tristan out of her house a year and a half earlier because she thought he was using methamphetamine.

The court sustained jurisdiction. It explained: "[I]t is a sign, usually an indication of mental health or substance abuse where the person is willing to live in squalor. Having reviewed the documentation in this case, I do believe the house had gone down to the point where there was a safety concern for the children, enough that the Court feels that the evidence supports the b(1) allegation. I do believe there's a potential that that was a mental health issue that contributed to b(1), but that will be born out more by the psychological [evaluation] that will be ordered." The court also found sufficient evidence to sustain the (b)(2) allegation. Mother was ordered to undergo a psychological evaluation to determine if she could benefit from reunification services.

Disposition³

The Department recommended the court bypass reunification services to Mother and dismiss the case with exit orders giving full physical and legal custody to Father, with supervised visitation for Mother. Mother had been convicted of willful harm or injury to a child in February 2018 based on the October 28, 2017 incident and was scheduled to be sentenced in August. She completed two psychological evaluations. In February 2018 Dr. Gloria Speicher diagnosed Mother with schizophrenia spectrum disorder, other poly drug use disorder, generalized anxiety disorder, and obsessive compulsive personality disorder with histrionic and narcissistic personality features. In May, Dr. Barbara Prowneiwski rendered a diagnosis of schizotypal (personality) disorder with compulsive, histrionic and narcissistic features, generalized anxiety disorder, post-traumatic stress disorder, and other poly drug use disorder. Both psychologists found Mother was unlikely to benefit from reunification services within the timeframe of the case and therefore recommended that she be bypassed for services.

The Department located Father. The social worker reported that Mother had prevented him from seeing the children and isolated the children from him prior to their removal. “The undersigned has also had collateral statements from [Father’s] family that indicate an ability to effectively parent and raise his adult children in the past. Since the time that [Father] was found, he has been actively involved and communicated well with the Department. He is aware that the children will have needs for support primarily through counseling and is committed to ensuring that happens. The Department visited [Father’s] home and it was found to be well maintained and suited for the children’s needs. [Father] is committed to following any orders of the court in regards to keeping the children safe from the mother. There are no known reasons that the Department is aware of that would prevent [Father] from ensuring the children’s safety and well-being.” Father had no criminal charges since 2007. The Department requested that the children

³ Mother’s challenge to the disposition order is based solely on her assertion that the jurisdictional order is invalid, so we will not discuss the disposition report and hearing in any detail.

return to Father's care with exit orders giving him full physical and legal custody of the children, with supervised visitation for Mother.

The disposition hearing was held on July 6, 2018. Mother, who was incarcerated, was present with counsel. The parties agreed Father was to have full custody, with phone calls for Mother and provisions for visitation after her release. The court found clear and convincing evidence the children should be removed from Mother's physical custody based on a substantial danger to their physical health or emotional well-being if they were returned home and ordered placement and sole legal and physical custody with Father. The court bypassed services for Mother "as the Juvenile Court matters are being dismissed with sole legal and sole physical custody awarded to Father." The court made various other orders addressing Mother's supervised phone calls and visitation, including requirements that she participate in parenting classes, drug testing and mental health treatment.

ANALYSIS

Mother contends the evidence was insufficient to support the jurisdictional orders. We disagree.

A child may be subject to juvenile court jurisdiction under section 300, subdivision (b) if the court finds by a preponderance of the evidence that he or she has suffered, or there is a substantial risk that he or she will suffer, serious physical harm or illness as a result of the parent's failure or inability to supervise, provide or care for the child. (§ 300, subd. (b).) We review the juvenile court's ruling for substantial evidence. " 'In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible.' " (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820, abrogated on another point in *In re R.T.* (2017) 3 Cal.5th 622, 629-630.) "We do not pass on the credibility of witnesses, attempt

to resolve conflicts in the evidence or evaluate the weight of the evidence.” (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.)

Applying these principles, the court’s finding under the b-1 allegation that Mother failed to provide a safe living environment for the children is supported by evidence of the hazardous (and apparently worsening) condition of her home; the children’s reports that Mother left them alone overnight; and their exposure to drugs, paraphernalia and drug users. The court’s b-2 finding (mental illness and substance abuse) is also supported by the record. Mother had not yet submitted to a mental health evaluation, but evidence including the police officers’ and social worker’s observations, Grandmother’s testimony and statements to the social worker, the numerous police complaints of erratic behavior, and the testimony that Dr. Heath had diagnosed her with schizophrenia, sufficiently establish that Mother suffers from a serious mental illness that interferes with her ability to adequately care for the children.

This record provided a substantial basis for the court’s jurisdictional findings, so we affirm. The sole basis for Mother’s challenge to the dispositional order is the alleged lack of dependency jurisdiction. We affirm that order as well.

DISPOSITION

The juvenile court’s orders are affirmed.

Siggins, P.J.

WE CONCUR:

Fujisaki, J.

Petrou, J.

In re A.M., A155294